

**MEETING NOTICE AND AGENDA**  
**MANSFIELD PLANNING AND ZONING COMMISSION**

Regular Meeting

**Monday, February 4, 2013 ▪ 7:10 PM**

**Upon Completion of Inland Wetland Agency**

Audrey P. Beck Municipal Building ▪ 4 South Eagleville Road ▪ Council Chambers

**1. Call to Order**

**2. Roll Call**

**3. Approval of Minutes**

- a. January 22, 2013 Regular Meeting

**4. Zoning Agent's Report**

- Monthly Activity Update
- Enforcement Update
- Other

**5. Public Hearings**

**7:15 p.m.**

**Subdivision Application, 29 North Windham Road; J. Sauve, applicant: PZC File #1311**

Memos from Director of Planning and Development, Assistant Town Engineer, Fire Marshal, EHHD

**7:30 p.m.**

**Subdivision Application, Beacon Hill Estates, Section II, Mansfield City Road, west of Beacon Hill Road; Eagleville Development Group, LLC, applicant: PZC File #1214-3**

Memos from Director of Planning and Development, Assistant Town Engineer

**6. Old Business**

- a. **Special Permit Application, Efficiency Unit, 22 Russett Lane, Jorgensen owner/applicant; PZC File #1314**
- b. **Special Permit Application, 54 residential apartments, 73 Meadowbrook Lane, Whispering Glen-Lakeway Farms, L.P., owner/applicant: PZC File #1284-2**
- c. **Subdivision Application, Beacon Hill Estates, Section II, Mansfield City Road, west of Beacon Hill Road; Eagleville Development Group, LLC, applicant: PZC File #1214-3**
- d. **Subdivision Application, 29 North Windham Road; J. Sauve, applicant: PZC File #1311**
- e. **Mansfield Tomorrow | Our Plan ▶ Our Future**
- f. **Other**

**7. New Business**

- a. New Subdivision Application, 85 & 87 Old Turnpike Road; Homework Properties, LLC; Owner & Applicant: PZC File #1315
- b. Request for Certificate of Compliance, Cumberland Farms, 1660 Storrs Road, PZC File #1303-2  
Memo from Zoning Agent
- c. Discussion on needed Infrastructure Improvements
- d. Other

**8. Reports from Officers and Committees**

- a. Chairman's Report
- b. Regional Planning Commission
- c. Regulatory Review Committee
- d. Planning and Development Director's Report
- e. Other

**9. Communications and Bills**

- a. Notice from Coventry Re: Zoning Regulation Amendment
- b. 1/22/13 letter from Matthew W. Hart to Jason Coite re: UConn Water Supply EIE
- c. Winter 2013 CFPZA
- d. Other

**10. Adjournment**

**DRAFT MINUTES**  
**MANSFIELD PLANNING AND ZONING COMMISSION**  
**Regular Meeting**  
**Tuesday, January 22, 2013**  
**Council Chamber, Audrey P. Beck Municipal Building**

Members present: J. Goodwin (Chairman), B. Chandy, R. Hall, K. Holt, G. Lewis, P. Plante (7 – 8:30 p.m.),  
B. Pociask, K. Rawn, B. Ryan  
Alternates present: A. Marcellino, V. Ward, S. Westa  
Staff Present: Linda Painter, Director of Planning and Development

Chairman Goodwin called the meeting to order at 7:00 p.m.

**Minutes:**

1-7-13 Meeting Minutes- Hall MOVED, Chandy seconded, to approve the 1/7/13 meeting minutes as written.  
MOTION PASSED with all in favor except Holt, Plante and Pociask, who were disqualified.

**Zoning Agent's Report:**

Members asked to have Hirsch report back regarding: Yukon Jack's sign advertising Live Music; parking in the Storrs Downtown on the temporary road between Dog Lane and Bolton Road; allowance of paper signs in the windows in the Storrs Center shops; and size limitations on free standing solar panels.

**Public Hearing:**

**Special Permit Application, 50 residential apartments, 73 Meadowbrook Lane, Whispering Glen-Lakeway Farms, L.P., owner/applicant: PZC File #1284-2**

Chairman Goodwin opened the continued Public Hearing at 7:10 p.m. Members present were: Goodwin, Chandy, Hall, Holt, Lewis, Plante, Pociask, Rawn, Ryan, and alternates Marcellino, Ward, and Westa, none of whom were appointed to act. Linda Painter, Director of Planning and Development, noted the following communications received and distributed to the Commission members: a January 22, 2013 email from Gayanath and Sandhya Fernando, 36 Michelle Lane; a January 21, 2013 email from Jessica Higham, 96 Meadowbrook Lane; a January 21, 2013 email from Amy Gorin, 42 Michelle Lane; a January 21, 2013 letter received in an email from William and Sarah Kaufold; a January 21, 2013 email from Thomas Peters, 27 Michelle Lane; a January 22, 2013 email from Lei Yu, 46 Adeline Place; a January 17, 2013 memo from Linda Painter, Director of Planning and Development; a January 16, 2013 memo from Grant Meitzler, Assistant Town Engineer; January 15, 2013 comments from the Open Space Preservation Committee; a January 14, 2013 letter from Patrick Lafayette, Development Solutions.

Patrick Lafayette, Development Solutions, gave an overview of the project and reviewed revisions to the plan based on the comments from staff. He distributed a 1-15-13 set of architectural plans and a materials sheet.

Members questioned Lafayette on building height; the number of parking spaces per unit, overflow parking and "stacking" of cars in driveways; flipping the position of the garage on units 41 & 42; and the number of driveway cuts and layout of the units facing Meadowbrook Lane. Holt questioned whether the project changed the character of the neighborhood, especially the units along Meadowbrook.

Chairman Goodwin noted there were no further comments from the public or commission. Plante MOVED, Pociask seconded, to close the public hearing at 7:47 p.m. MOTION PASSED with all in favor except Holt and Hall who were opposed.

**Old Business:**

- a. **Special Permit Application, Efficiency Unit, 22 Russett Lane, Jorgensen owner/applicant; PZC File #1314**  
After extensive discussion, Rawn and Chandy volunteered to work with staff on draft motions.
- b. **Special Permit Application, 54 residential apartments, 73 Meadowbrook Lane, Whispering Glen-Lakeway Farms, L.P., owner/applicant: PZC File #1284-2**  
After extensive discussion, Plante and Holt volunteered to work with staff on draft motions.
- c. **Subdivision Application, Beacon Hill Estates, Section II, Mansfield City Road, west of Beacon Hill Road; Eagleville Development Group, LLC, applicant: PZC File #1214-3**  
Item was tabled pending the 2/4/13 continuation of the public hearing.
- d. **Subdivision Application, 29 North Windham Road; J. Sauve, applicant: PZC File #1311**  
Item was tabled pending a 2/4/13 public hearing.
- e. **Mansfield Tomorrow | Our Plan ► Our Future**  
Painter gave a demonstration of the interactive portion of the Mansfield Tomorrow website, noting that this will be a great tool for those residents and stakeholders who want to provide input but are not comfortable speaking in public or do not have time to attend the public meetings. Painter noted that an application for residents interested in serving on the Advisory and Focus Groups has been published. Applications received by January 30<sup>th</sup> will be provided to the Commission for review and selection to serve on the Advisory Group and focus groups. It is expected the Commission will appoint 5 residents from different parts of town, 1 or 2 members from the faith community and 1 local builder/developer to serve on the Advisory Group. Other applicants, depending on interest and qualifications, may be asked to serve on a focus group. She called to everyone's attention the following important dates to put on the calendar: a January 30, 2013 Kick Off meeting and a March 9, 2013 Community Workshop.

**New Business:**

None.

**Communications and Bills:**

None noted.

**Executive Session:**

Pociask MOVED, Holt seconded, to enter into Executive Session at 8:43 p.m. MOTION PASSED UNANIMOUSLY.

Present were Goodwin, Chandy, Hall, Holt, Lewis, Pociask, Rawn, Ryan, Marcellino, Ward, Westa, Linda Painter, Director of Planning and Development and Attorney O'Brien.

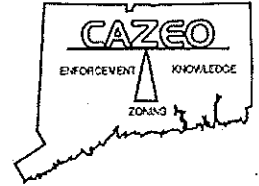
Lewis MOVED, Ryan seconded, to end the Executive Session at 9:20 p.m. MOTION PASSED UNANIMOUSLY.

**Adjournment:** The Chairman declared the meeting adjourned at 9:21 p.m.

Respectfully submitted,  
Katherine Holt, Secretary



# Town of Mansfield



CURT B. HIRSCH  
ZONING AGENT  
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING  
4 SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3341

Memo to: Planning and Zoning Commission  
From: Curt Hirsch, Zoning Agent  
Date: January 30, 2013

## MONTHLY ACTIVITY for January, 2012

### ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Cone	260 Coventry Rd.	garage/workshop
Rollins	986 Mansfield City Rd.	lot line revision
Yukon Jacks Grill	497 Middle Tpke.	Accessory music permit
Cumberland Farms	1660 Storrs Rd.	lot line revision
Head Husky	9 Dog La. B-104	identity signage

### CERTIFICATES OF COMPLIANCE

Erlandson	412 Storrs Rd.	shed
Sawtelle	74 Browns Rd.	solar arrays
Eye	20 Hillyndale Rd.	deck
Subway	1 Dog La, A-106	retail food service
Ristau	9 Elizabeth Rd.	shed
Michael's Arts & Crafts	95 Storrs Rd.	retail use
Barton/Bladen	88 Mansfield Hollow Rd.	shed
Engsberg	60 Olsen Dr.	deck
Ruddy	423 Gurleyville Rd.	shed


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**TOWN OF MANSFIELD**  
**DEPARTMENT OF PLANNING AND DEVELOPMENT**

LINDA M. PAINTER, AICP, DIRECTOR

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**Memo to:** Planning and Zoning Commission  
**From:** Linda M. Painter, AICP, Director of Planning and Development   
**Date:** January 31, 2013  
**Subject:** Sauve Subdivision  
Subdivision Application (3 lots)  
(PZC File 1311)

**Project Description**

The subject property is comprised of a 10.74 acre parcel located on north side of North Windham Road, west of Bates Road. The property has ±238 feet of frontage along North Windham Road. The front portion of the property is currently developed with a single-family home, detached garage, shed and barn. All of the structures are vacant and as a result of disuse, gradually falling into disrepair. The applicant is proposing to subdivide the property into 3 lots for single-family homes served by a common driveway; which will require waivers to frontage requirements for two of the three lots. .

**Background**

In August 2012, the applicant submitted for review under the Subdivision Design Process established in Section 5 of the Subdivision Regulations. As part of the design submission, the applicant prepared a yield plan demonstrating that a new cul-de-sac street could be constructed to serve three new lots as well as a concept plan that used a common driveway for access. The preliminary concept was reviewed both by staff and various committees, including the Conservation Commission and Open Space Preservation Committee. The Planning and Zoning Commission/Inland Wetlands Agency also conducted a field trip and discussed the comments of staff and the other committees at their October 1, 2012 meeting.

The following recommendations were provided to the applicant in my September 27, 2012 memo to guide development of future plans:

- *Proceed with the preliminary subdivision plan that makes use of the common driveway option.*
- *Expand Lot 1 to include the open space preservation areas as agricultural easement areas. To provide the greatest agricultural flexibility, Lot 1 should be at least 5 acres in size. It is also recommended that the applicant consider retaining the barn and wells to increase the agricultural viability of the property.*
- *Map the actual boundaries of the stratified drift aquifer pursuant to the list of reference sources in in Article VI, Section B.4.m of the Mansfield Zoning Regulations. If septic systems are proposed within 500 feet of aquifer areas, the applicant shall submit a written report from a sanitary engineer and/or geologist or other qualified professional detailing the system design, physical*

*characteristics of the area, existing land uses, and potential short-term and cumulative impacts on identified aquifer areas.*

- *Incorporate Low Impact Development techniques as identified in the 2011 Appendix to the Connecticut Stormwater Quality Manual to maintain pre-development hydrology to the maximum extent practicable.*
- *Identify the specific lot frontage and building setback lines requested as part of the final application and how the requests comply with the criteria for approving waivers.*
- *Identify how the common driveway complies with the requirements of Sections 7.9-7.11 of the Subdivision regulations.*
- *Identify significant trees to be preserved pursuant to Section 7.8 of the Subdivision Regulations.*
- *Preserve stone walls wherever possible. Where stone walls must be impacted, provide a plan for reuse of the stones in accordance with Section 7.7 of the Subdivision Regulations.*
- *Identify how the homes will be sited to take advantage of solar gain and summer breezes.*
- *Submit a request for review by the DEEP Bureau of Natural Resources Wildlife Division and address the resulting correspondence/recommendations in the final subdivision design/application. A copy of the DEEP correspondence should be included with the application.*

### **Review of Proposed Subdivision Plan**

The following comments are based on a review of the 3-page plan set dated December 21, 2012 for compliance with the Mansfield Zoning and Subdivision Regulations, consistency with the recommendations issued in September 2012 as summarized above, and updated comments from the Open Space Preservation Committee.

#### Lot Layout

The proposed subdivision has been designed using a common driveway to reduce impacts as recommended through the subdivision design process.

#### *Lot Size and Configuration*

All three lots are over 90,000 square feet in size and have a buildable area exceeding 40,000 square feet, consistent with the requirements of Article VIII of the Zoning Regulations. Lot 1 is approximately 6.4 acres in size, which is consistent with the recommendations of the OSPC provided during the design review process. By creating a lot that exceeds 5 acres, this property is more readily usable for agriculture.

#### *Building Setback Lines/Lot Frontages*

Section 7.5 of the Subdivision Regulations requires all lots to meet the building setback and frontage requirements of the Zoning Regulations, unless waived or reduced pursuant to Section 7.6. The Commission also has the authority to increase building setbacks and frontages to protect significant natural and manmade features and/or scenic views and vistas. Due to the use of the common driveway, frontage waivers are required for Lots 2 and 3. This waiver needs to be clearly and prominently noted on the final subdivision plan and on deeds of the affected and abutting lots.

Pursuant to Section 7.5, the Commission also has the ability to waive or reduce setbacks in the interest of protecting natural features provided no reductions of setbacks are approved along the side or rear property lines of the subdivision tract. As such, the plans need to be revised to change the BAE boundaries for all three lots along the boundaries of the subject tract to be at least 35 feet along the side property lines of the subject property and 50 feet along the rear line of the subject property.



The plan includes a reduction in the setback along North Windham Road from 60 feet to 30 feet to accommodate the location of the existing garage. The final plans will need to specifically and prominently note the reductions on each of the affected lots and require that the reductions be noted on the deeds of the affected and abutting lots.

In addition to the general setback requirements noted above, there are several locations where the BAE and DAE for the lots overlap steep slope areas. With the exception of the area needed for the common driveway, the BAE and DAE lines should be changed to exclude steep slope areas.

#### *Common Driveway*

The proposed layout includes a common driveway approximately 500 in length. Pursuant to Section 7.10, the Commission may authorize use of a common driveway if it meets the design objectives of Section 5.1 and one or more of the following criteria:

- Wetlands, steep slopes or other physical constraints would require extensive grading, filling or tree removal for individual driveways.
- The common driveway will enhance vehicular and/or pedestrian safety.
- The common driveway will protect and preserve natural and manmade features, scenic views and vistas, interior forests and/or existing or potential conservation areas identified in the Plan of Conservation and Development (see map 21); or
- The driveway will promote cluster development and other design objectives of these regulations.

Given the topography of the property, the proposed common driveway will have less of an environmental impact than the construction of a cul-de-sac street.

The following revisions to the common driveway are needed based on staff review of the plans for compliance with Sections 7.10 and 7.11 of the regulations:

- Pull-off(s) need to be added pursuant to Section 7.11(b). There appears to be one shown on Sheet 2, but not on Sheet 1.
- At the intersection with North Windham Road, the driveway needs to be widened to 20 feet for a distance of 40 feet in accordance with Section 7.10.f. This detail appears to be correct on Sheet 2 but not on Sheet 1.
- A turn-around area at the end of the driveway is required in accordance with Section 7.11.c.
- Notes will need to be added to the plans to address ownership and maintenance of the common driveway as well as the other requirements of Section 7.10.

#### *Trees and Stone Walls*

The following items need to be addressed through submission of revised plans:

- *Stone Walls.* Based on the plans submitted, no changes are proposed to the existing stone walls on the property. Note 4 on Sheet 3 needs to be revised to prohibit removal or disturbance of the stone walls. The DAE boundaries should be revised to exclude the stone walls.
- *Trees.* The subdivision plans identify several significant trees on the subject property; however, there is no indication as to which of those trees will be preserved. Plans should be revised to note which trees will be preserved and add notes regarding preservation and protection

measures during construction. The applicant is encouraged to adjust the driveway location to preserve the 26 and 18 inch oak trees on Lot 1.

#### *Wildlife Habitat*

Contrary to the information submitted as part of the Site Analysis, the Connecticut Natural Diversity Database does identify this area as a potential habitat for protected species. The applicant is advised to submit a request for review by the DEEP Bureau of Natural Resources Wildlife Division and provide the resulting correspondence to determine whether any protective measures are needed.

#### Drainage

The use of the common driveway requires significantly less pavement than a new street. Use of best practices as identified in the 2011 Appendix to the Connecticut Stormwater Quality Manual is encouraged for development of individual lots as well. Proposed design practices and notes should be included for both street design and development of individual lots.

#### Utilities

##### *Underground Utilities*

No information was submitted with regard to utilities. Plans should be revised to address the requirements of Section 11.1.

##### *Water and Wastewater*

Each of the proposed lots will be served by individual well and septic systems. The Eastern Highlands Health District has reviewed the proposal and requested changes in the location of the proposed well with regard to the location of the dwelling and foundation drain.

As noted in my 9/27/2012 report, the front developed portion of the property is within the aquifer recharge area. GIS maps of the stratified drift aquifer indicate that it may extend over the western and eastern portions of the property as well. The applicant needs to map this area pursuant to the list of reference sources in Article VI, Section B.4.m of the Mansfield Zoning Regulations. If septic systems are proposed within 500 feet of aquifer areas, the applicant needs to submit a written report from a sanitary engineer and/or geologist or other qualified professional detailing the system design, physical characteristics of the area, existing land uses, and potential short-term and cumulative impacts on identified aquifer areas.

#### Open Space

As recommended by the OSPC during the subdivision design process, the applicant is proposing two agricultural areas as part of Lot 1: a 1 acre 'Barn Lot' and a 3.1 acre 'Farm Lot.' These areas will assist in preservation of prime farmland soils, which is a conservation priority in the POCD. Preservation of these areas through an agricultural easement is consistent with the intent of the open space dedication requirements of Section 13.1.

##### *Character of Proposed Open Space.*

Pursuant to Section 13.1.1 of the Subdivision Regulations, the Commission can require up to 15% of the property to be preserved as open space, either through dedication or use of conservation easements. Additionally, the Commission can require that the preserved open space be of the same general character as the overall property (Section 13.3).

The applicant has proposed a total of 4.1 acres of agricultural areas, which constitutes approximately 38% of the overall subject property. With regard to overall character, the areas preserved for agriculture include significant level ground, a very small section of wetlands and some areas of steep slopes. While no calculations were provided, the proposed easement areas appear to be consistent with the overall character of the property in terms of percentage of wetland and steep slope areas.

The Conservation Commission did not have a quorum at their January 16<sup>th</sup> meeting when this item was considered, so no official recommendation was made. The following minutes of their discussion are provided for information:

*"The developer proposes to subdivide an 11-acre parcel off N. Windham Rd. into 3 lots, to be accessed by a common driveway. The designated open space on the pre-application plan for this "Open Space Subdivision" {discussed by the Commission at its September meeting, item 4d of 09/19/12 minutes} has disappeared, replaced by agricultural easements, a change apparently encouraged by comments on the pre-application plan from the Open Space Preservation Committee. Lehmann expressed surprise at that committee's preference for an agricultural easement on private land over public open space, welcome as this might be to the developer. Kessel noted that private agricultural land affords the public views of (if not access to) open space and that residents of this subdivision would have access to a great deal of public open space in adjacent Mansfield Hollow State Park. Lehmann also wondered whether wetlands would be adequately protected under the agricultural easements, since state statutes exempt farming operations from certain regulations protecting inland wetlands. It is not clear whether enforceable wetlands protections can be written into agricultural easements. Lacking a quorum, the Commission took no action."*

#### *Form of Dedication*

The proposed barn and farm lots should be included in agricultural easements as recommended by the OSPC in their January 15, 2012 memo. The easement documents would need to be approved and recorded with the subdivision, and the plans should be changed to reflect the fact that these areas are subject to an agricultural easement.

#### **Summary/Recommendations**

Based on the number and nature of the revisions identified in this report, staff recommends that the public hearing remain open until the following information has been submitted and reviewed by the Commission:

- Mapping of the stratified drift aquifer boundaries pursuant to the list of reference sources in Article VI, Section B.4.m of the Mansfield Zoning Regulations. If septic systems are proposed within 500 feet of aquifer areas, the applicant shall submit a written report from a sanitary engineer and/or geologist or other qualified professional detailing the system design, physical characteristics of the area, existing land uses, and potential short-term and cumulative impacts on identified aquifer areas.
- Application and resulting correspondence from DEEP Natural Resources Wildlife Division
- Changes to the proposed plans as identified in this memo, as well as those recommended by the Fire Marshal, Assistant Town Engineer and Eastern Highlands Health District

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## NOTES

- The analysis and recommendations contained in this report are based on the following information submitted by the applicants:
  - Application submitted January 2, 2013 and received by the PZC on January 7, 2013, including:
    - Three Page Plan Set dated December 21, 2012 prepared by Rob Hellstrom Land Surveying LLC
    - Yield Plan dated May 2, 2012
    - Site Analysis dated July 13, 2012
- The following correspondence regarding the proposed development has been received:
  - Memo from Geoffrey Havens, Eastern Highlands Health District, dated January 4, 2013
  - Memo from Mansfield Agriculture Committee dated January 24, 2013
  - Memo from Mansfield Open Space Preservation Committee dated January 15, 2013
  - Memo from Grant Meitzler, Assistant Town Engineer, dated January 31, 2013
  - Memo from Francis Raiola, Fire Marshal, dated January 30, 2013
  - Minutes of January 16, 2012 Conservation Commission meeting
- Neighborhood Notification Forms were required to be sent to property owners abutting the subject property (including property owners across the street) in accordance with Section 4.11 of the Mansfield Subdivision Regulations. A copy of the notice has been provided. Certified mail receipts dated January 8, 2013 have been submitted.
- The Public Hearing on this item will be opened on February 4, 2013 and must be closed by March 11, 2013 unless a written extension is granted by the applicant.
- Before rendering a decision, the Planning and Zoning Commission must consider other referral reports and public hearing testimony. A decision must be made within 65 days of the close of the Public Hearing unless the applicants grant a written extension.

Memorandum:

January 31, 2013

To: Inland Wetland Agency  
Planning & Zoning Commission  
From: Grant Meitzler, Inland Wetland Agent  
Assistant Town Engineer  
Re: W1510 - Sauve Subdivision - N.Windham Rd, 3 Lots

Plan reference: dated 12.21.2012

This application proposes three new lots where one lot existed before. The existing house and barn are to be removed.

The site is on North Windham Road which is a short 'no exit' street located off the continuation in Chaplin of Bassetts Bridge Rd. The name changes to Bates Rd in Chaplin. There are three other existing houses on this road.

The distance to the North Windham town line is just over 500 feet. No referral to North Windham is needed.

There is a single wetland are located on Lots 1 & 2. This appears to be a part of a larger wetland area on the adjacent Bell property, that drains in this direction. This wetland is 280 feet long on Lot 2 and 160 feet long on Lot 1. On Lot 2 there there are areas of standing water with very flat slopes. On Lot 1 the wetland area narrows to 15 feet wide as it becomes much steeper. As this wetland reaches lower lying area designated as "FARM LOT" the flow goes underground and the wetland ends.

Item	SEPARATING DISTANCE TO WETLANDS		
	lot 1	lot2	Lot 3
House .....	135	100	205
Driveway .....	273	160	251
Septic system .....	173	90	370
Reserve .....	190	67	391
Well .....	247	89	312
Footing drain .....			* not shown
BAE .....	82	47	265
DAE .....	0**	43	222 **in FARM LOT
Lot Area .....	6.4	2.1	2.2

The steepest driveway slope I found is 9.09 %. The plan notes that the maximum driveway slope is to be less than 10 %. Individual drives are 12 feet wide; shared drives are 16' wide and a forty foot long section at the drive entrance at N.Windham Rd is 20' wide. There is a 26" oak tree near the center of the 10'x 40' pulloff at the Lot 1 drive intersection. The paved apron at the beginning of the new shared driveway is to have a 5' radius on each side in addition to being paved for the full 20' width. The detail on sheet 3 shows no radius.

The driveway detail shows 12 inches of processed aggregate base with a parallel drainage swale lined with rip-rap.

Street dedication should be made establishing a new streetline 25' back from the centerline of North Windham Rd. Monumentation is needed along the new streetline.

All of the deeds and easements coming to the town are to be covered by a certificate of title indicating there are no encumbrances or stating what encumbrances there are and providing partial releases or subordination agreements

I recommend the farming use on Lot 1 be fixed with an easement that perpetuates the commitment to farming.



# Town of Mansfield Mansfield Fire Department



**To:** Planning and Zoning Commission

**From:** Fran Raiola, Acting Deputy Chief/Fire Marshal

**CC:** Linda Painter, Director of Planning

**Date:** January 30, 2013

**Re:** Sauve Subdivision

PZC File # 1311

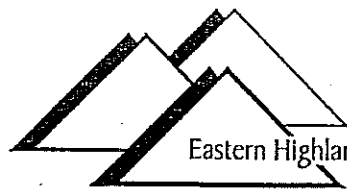
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After reviewing the submitted plans, file, and site plan for a three lot subdivision located on North Windham Road dated December 21, 2012, I have the following comments.

1. The driveway must meet the requirements of section 7.10 for Common Driveways.
2. The common driveway is in excess of 300 feet and therefore must meet the requirements of Section 7.11 for Driveway Length Standards.

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Eastern Highlands Health District

4 South Eagleville Road • Mansfield CT 06268 • Tel: (860) 429-3325 • Fax: (860) 429-3321 • [www.ehhd.org](http://www.ehhd.org)

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## Subdivision Plan Review Memo

To: James Sauve  
From: Geoffrey Havens, RS   
Copies: Linda Painter, Mansfield Town Planner  
Rob Hellstrom Land Surveying, LLC  
Date: January 4, 2013

Re: Plans for Sauve Subdivision, Three New Lots on  
North Windham Road, Mansfield, CT

Most Recent Plan Date: December 12, 2012

The above referenced subdivision plan has been reviewed for compliance with the State of Connecticut Public Health Code and Technical Standards and we have the following comments:

- Lot 1 Appears capable of compliance with the Public Health Code, pending final review of a design plan by this office.
- Lot 2 The proposed well site is less than 25 feet away from the dwelling and, presumably, that building's foundation drain. There appears to be space available for the well site to be suitably relocated. Otherwise, the lot appears capable of compliance with the Public Health Code, pending final review of a design plan by this office.
- Lot 3 Appears capable of compliance with the Public Health Code, pending final review of a design plan by this office.

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January 15, 2012

To: PZC, Linda Painter

From: Open Space Preservation Committee

Re: Sauve Subdivision Application

At their January 15, 2013, meeting the Open Space Preservation Committee reviewed the Sauve 3-lot subdivision application. The committee toured most of the property on North Windham Road on September 9, 2012. The proposed open space dedication is two agricultural easements on Lot One.

## **NOTED FEATURES**

### **Neighboring Properties**

The Sauve property is next to Mansfield Hollow State Park on the east (a 2-acre wooded parcel) and on the west (hay field). The Nipmuck Trail starts at the end of the dead-end street and skirts the far side of the Park's hay fields. There are also numerous old roads and side trails in this part of the Park, offering hiking, biking and horse-back riding options. Hunting is allowed in this part of the Park. The north side of the property abuts the Gardens at Bassetts Bridge, whose owners have recently clearcut the area next the property boundary to create an agricultural field, possibly for blueberry production. Across the street are several small house lots.

### **Property Description**

The Sauve property has three distinct areas:

- 1) A wooded knoll on the north side of the property, where the three houses would share a driveway.
- 2) A level area on the street currently containing a house, shed, a large barn, a small barn, and two wells. This is overgrown with barnyard weeds. This "barn lot" is proposed as part of Lot 1 as a 1-acre agricultural easement area, where agriculturally related buildings, such as barns, would be permitted.
- 3) Lot 1 would also have a 3.1-acre agricultural easement area ("farm lot") along the west boundary, which would allow only agricultural uses, such as pasture or crops. This area contains a level 1.63-acre field, which is accessed by a farm lane. The field is a former pasture (mostly goldenrod at this time). Because this field has not been used recently, it could probably be certified for organic production. The field is rated as prime farmland by NRCS. There is a small (approx. 0.1-acre) area of identified wetlands on the east side of the field. A wooded hedgerow separates this field from the hayfield in the Park. (continued on p. 2)

## RECOMMENDATIONS

Because of the adjoining agricultural properties, the committee recommends that the Town encourage agricultural use of the Sauve property. This is also an opportunity to preserve prime farmland soils (a conservation priority in the POCD). Specifically, the committee recommends that PZC approve the proposed agricultural easement areas on Lot 1. These easements would carry with the deed when ownership changed hands. The easements would preserve the agricultural use of part of this property, and complement the agricultural uses on abutting properties. A minimum of 5 acres for Lot 1 is recommended so that Town zoning regulations would offer the greatest flexibility for agricultural uses.

The barn area and the field area were previously proposed as an open space dedication area to be owned by the Town.

- 1) Because of the small size of the field and the location of the access lane on private property, OSPC recommends that the "farm lot" have an agricultural easement rather than be owned by the Town.
- 2) The area along the road could present possible liability and management issues for the Town once the house and other buildings are demolished. The committee supports the proposed "barn lot" easement instead. The committee recommends not demolishing the small barn and wells in this area, if possible.

## MANSFIELD AGRICULTURE COMMITTEE

To: Planning and Zoning Commission

Re: Proposed Sauve Subdivision

January 24, 2013

The Agriculture Committee reviewed the proposed Sauve subdivision at their January 24, 2013 meeting. The committee is in support of the proposed agricultural easements on Lot 1. They will preserve part of an agricultural property for continued agricultural use in a location adjacent to other agricultural operations (hay production in Mansfield Hollow State Park and various crops at The Gardens at Bassetts Bridge).

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**TOWN OF MANSFIELD**  
**DEPARTMENT OF PLANNING AND DEVELOPMENT**

---

LINDA M. PAINTER, AICP, DIRECTOR

**Memo to:** Planning and Zoning Commission  
**From:** Linda M. Painter, AICP, Director of Planning and Development  
**Date:** January 31, 2013  
**Subject:** Beacon Estates Section 2  
Subdivision Application (17 lots)  
(PZC File 1214-3)



This memo is provided as a supplement to my January 3, 2013 memo.

**Review of Proposed Subdivision Plan**

The following comments are based on a review of the 14-page plan set dated January 18, 2013 for compliance with the Mansfield Zoning and Subdivision Regulations and issues addressed in my January 3, 2013 memo.

Lot Layout

*Lot Size and Configuration*

The applicant has confirmed that each lot has 40,000 square feet of suitable land for building and revised Note 4 on Sheet 4 accordingly.

*Building Setback Lines/Lot Frontages*

Based on the table provided by the applicant, the following waivers/reductions are requested pursuant to Sections 7.4 and 7.6:

Lot Area: Lots 24-29, 31-34, and 38-40

Lot Frontage: All lots except Lot 29

Setbacks: Lot 29 (Front and Side); Lots 31, 33, 34, 38 and 39 (side yard) and Lots 32 and 40.

In all cases where a lot abuts another property not owned by the applicant, the proposed Building Area Envelopes meet the required side and rear yard setbacks for the overall subdivision tract.

The BAE and DAE boundaries have been revised pursuant to discussions with staff to better protect stone walls. As a general note, in some cases where BAE lines were revised, they were noted BE instead of BAE-this should be fixed on the final plan set.

Based on staff's review, the proposed lot area and frontage reductions and Building Area/Development Area envelopes are consistent with the overall conservation/cluster design of the subdivision and are

consistent with the requirements of Section 7.6. Pursuant to Section 7.6, any reductions in frontage and setbacks shall be clearly and prominently noted on the final plans and shall be specifically noted on the deeds of the affected and abutting lots.

#### *Common Driveway*

The applicant has made several revisions to the plans pursuant to Sections 7.10 and 7.11 of the regulations:

- Four pull-offs are proposed along the driveway. Based on pure math, that results in an average separation between the pull-offs of  $\pm 323$  feet. However, as the details on the pull-offs are located on separate sheets, it was difficult to determine the actual distance between them to confirm compliance with the requirement that they be located at average intervals of 300 feet (Section 7.11). Additional information should be provided by the applicant on the proposed separation between the pull-offs.
- At the intersection with Wyllys Farm Road, the driveway needs was widened to 20 feet for a distance of 87 feet in accordance with Section 7.10.f.
- Turn-around areas have been provided along the common driveway as well as the driveway for Lot 25.
- Prior to recording, the applicant will need to provide a common driveway easement for approval by the PZC Chairman with the assistance of staff.

The Fire Marshal did not have a chance to review the revised plans and documentation prior to issuance of this memo; we hope to have his comments prior to the public hearing on February 4<sup>th</sup>.

#### *Trees and Stone Walls*

The following items need to be addressed through submission of revised plans:

- *Stone Walls.* The revised plans indicate where stones removed from existing walls will be used to create new walls and include a note relating to preservation of walls on individual house lots and reuse of stones if those walls are disturbed.
- *Trees.* The revised plans identify significant trees and include a note for protection during construction.

#### Access

In response to the recommendation of the Fire Marshall as noted in his memo dated January 3, 2013, the applicant has provided an 12-foot wide gravel emergency access road that extends from Mansfield City Road to the end of the cul-de-sac. This gravel drive also provides vehicular access to the Stormwater pond for maintenance purposes.

#### *Low Impact Development*

My previous memo recommended use of more Low Impact Development techniques as part of the street design. After meeting with the applicant and Director of Public Works, it was determined that a narrower pavement width is not possible unless the Town's street specifications are amended. If the specifications were to be amended, the applicant would be willing to reduce the pavement width to reduce impervious area. Due to long-term maintenance concerns, the Director of Public Works did not support the concept of a tear-drop cul-de-sac design.



### *Street Trees*

Staff is consulting with the landscape architect member of the Design Review Panel on the tree selection and hopes to have a final recommendation prior to the public hearing on February 4, 2013.

### *Other Requirements*

Deeds and easements will be provided for review and approval by the PZC Chairman with the assistance of staff prior to recording of final subdivision plans. The applicant has provided a construction estimate with the most recent plan revision. The Assistant Town Engineer has requested that a 15% contingency be added to this estimate, which is consistent with the 20% contingency allowed under state law. The amount of any financial guarantee posted will ultimately be based on the estimate of work remaining at the time the guarantee is posted, since pursuant to the revised state statutes, the applicant may post a financial guarantee at any time prior to completion of the required public improvements. The Commission may want to consider requiring that the construction estimate include the following:

- The inspection and testing of construction activities and materials by a qualified independent third party, including the quantity and cost of each inspection and testing item.
- Additional costs if the Town is forced to take over completion of the public improvements, such as preparation of bid documents, advertising and prevailing wages.
- A 3rd party construction manager to oversee construction of the improvements on behalf of the Town.

The Commission may require a financial guarantee for erosion and sedimentation controls prior to commencement of any improvements. The suggested amount of this guarantee is \$10,000 based on discussions with the Assistant Town Engineer.

### Drainage

The applicant has added a note on sheet 4 encouraging the use of LID practices on individual lots.

### Utilities

#### *Underground Utilities*

Utilities are proposed to be underground pursuant to Section 11.1, and the appropriate notes have been added to Sheet 4. Per the applicant, the utility companies will not review plans until approval is granted.

### *Water and Wastewater*

According to the letter provided by the applicant in response to staff comments, they have addressed the concerns identified by Eastern Highlands Health District. As of the date of this memo, this assertion had not been confirmed by EHHD.

### Open Space

#### *Character of Proposed Open Space.*

The applicant has revised the plans to increase the total open space preservation to 24.69 acres, which constitutes 39.8% of the property. In response to concerns regarding the proportion of wetlands in the preserved open space as compared to the overall property, the applicant is proposing to off-set this difference through the removal of existing invasive barberry bushes in the wetland corridor and construction of a wood chip trail from the boundary with Section 1 of Beacon Hill to Mansfield City Road.

## *Trails*

The applicant has made several changes to the proposed trails based on comments from the Open Space Preservation Committee:

- The trail connecting to Section 1 behind lots 38-40 now crosses the common driveway and extends to Mansfield City Road. The OSPC had recommended placement on the south side of the driveway; however, there was not sufficient space between the driveway and the stone wall. The existing stone wall will separate the trail from the driveway and a split-rail fence will be installed along the boundary with the adjacent property. The response to comments indicates that a deeded right-of-way will be provided for the section of the trail that runs adjacent to the common driveway.
- The southerly boundary of the open space dedication extending from Wyllys Farm Road to Mansfield City Road has been changed to be coincident with the existing stone walls as previously recommended.
- The proposed trail along Mansfield City road stops at the emergency access driveway; this trail should be extended to connect to Mansfield City Road at the northeast corner of the property as previously recommended.

## *Form of Dedication*

Changes to the form of dedication have been made pursuant to recommendations from my last memo.

## **Summary/Recommendations**

The issues identified in this report are fairly minor and could be addressed through conditions of approval. Unless otherwise indicated by testimony during the public hearing or concerns from the Commission, the public hearing may be closed on February 4<sup>th</sup>.

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## **NOTES**

- The analysis and recommendations contained in this report are based on the following information submitted by the applicants:
  - Application submitted October 18, 2012 and received by the PZC on December 3, 2012\*, including:
    - Fourteen Page Plan Set revised to January 18, 2013 prepared by Datum Engineering and Surveying
    - Wetland Report prepared by John Ianni dated October 2012
    - Letter and drainage calculations prepared by Civil Engineering Services dated January 23, 2013
    - Copy of US Army Corps of Engineers Category 1 Certification Form dated 1/23/13
    - Copy of DEEP permit application dated 1/23/13
    - Construction cost estimate
    - Letter from Edward Pelletier dated 1/23/13 in response to Painter memo dated 1/3/2013
- The following correspondence regarding the proposed development has been received:
  - Memo from Geoffrey Havens, Eastern Highlands Health District, dated December 26, 2012
  - Memo from Grant Meitzler, Assistant Town Engineer, dated January 2, 2013
  - Memo from Francis Raiola, Fire Marshal, dated January 2, 2013
  - Letter from Lawrence Mayer, 46 Beacon Hill Drive, dated August 1, 2012
  - Letter from Douglas Hamilton and Pamela Paine, 43 Beacon Hill Drive, dated August 2, 2012

- Email from Douglas Hamilton dated January 7, 2013 with attached petition
- Memo from Grant Meitzler dated January 31, 2013
- Neighborhood Notification Forms were required to be sent to property owners abutting the subject property (including property owners across the street) in accordance with Section 4.11 of the Mansfield Subdivision Regulations. A copy of the notice has been provided. Certified mail receipts dated December 6, 2012 have been submitted.
- The Public Hearing on this item will be opened on January 7, 2013 and **must be closed by February 11, 2013 unless a written extension is granted by the applicant.**
- Before rendering a decision, the Planning and Zoning Commission must consider other referral reports and public hearing testimony. A decision must be made within 65 days of the close of the Public Hearing unless the applicants grant a written extension.

\*The original application was received by the Commission on November 5, 2012. However, it was withdrawn and immediately resubmitted for receipt on December 3, 2012 due to a notice issue.

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Memorandum:

January 29, 2012

To: Inland Wetland Agency  
Planning & Zoning Commission  
From: Grant Meitzler, Inland Wetland Agent  
Grant Meitzler, Assistant Town Engineer  
Re: W1505 Beacon Hill 2 - 17 Lot Subd. - Mansfield City Rd

Datum Engineering letter dated 1-23-2013  
Civil Engineerinmg Services Drainage letter dated 1-23-2013

Plan reference: dated revised to January 18, 2013

The above listed letters and plans have commented on the following:

1. CB 12 & 13 that carry outlet drainage from the site to  
And existing pipe outlet on the opposite side of  
Mansfield City Rd.

Figures had been supplid for these flow numbers but  
Were obscured by the computers choice of displaying  
the figures resulting from the complete analysis.

These submitted figures substantiate a net lowering of  
peak flow to this pipe outlet.

2. Sight lines are now shown at our required 250' length for  
this 25 mph road.
3. Street signing has been added.
4. The bonding estimate should include a 15 percent  
contingency:

submitted:	\$ 440,977.
15% contingency:	66,147.
Total:	507,124.

5. A 20' wide first section of the shared drive has been  
shown that was made 87' long in order to meet require-  
ments for placement of the required 40' pulloff area  
farther back along the driveway.

6. The applicant's preferred timing indicates the preference for waiting until they can be sure there are no further plan revisions. I see no problem with this delay in recording deeds.
7. The Jan. 23, 2013 letter from Civil Engineering Services submits drainage calculations for the potential brookflows over the common drive surface. The calculations indicate adequate pipe capacity.

RECEIPT OF APPLICATION FOR A SUBDIVISION:

\_\_\_\_\_, move and \_\_\_\_\_ seconds to receive the

SUBDIVISION application (file # 1315 )

submitted by Homeworks Properties, LLC

for a 2-lot subdivision

on property located at 85-87 Old Turnpike Road

as shown on plans dated 12/12/12,

and as described in other application submissions, and to refer said application to the staff, Conservation Commission, and Open Space Preservation Committee for review and comments and to set a public hearing for March 4, 2013 at 7:15 p.m.

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file # 1315  
filing date 1-25-13

**MANSFIELD PLANNING & ZONING COMMISSION  
APPLICATION FOR SUBDIVISION OR RESUBDIVISION APPROVAL**

Name of subdivision Homeworks Properties

Name of subdivider (applicant)  
Homeworks Properties, LLC c/o Steven Rogers Phone # 860-429-8455  
(please PRINT)

Address 167 Baxter Road, Storrs, CT 06268  
(street) (town) (state) (zip)

Signature  (owner X)  
(optionee) Date 12-12-12

**OWNER (IF OTHER THAN SUBDIVIDER)**

Name same as applicant Phone # \_\_\_\_\_  
(please PRINT)

Address \_\_\_\_\_  
(street) (town) (state) (zip)

Signature \_\_\_\_\_ Date \_\_\_\_\_

**FEES**

See Town Council-approved Fee Schedule & Eastern Highlands Health District Review Fee Schedule  
(Subdivisions will not be reviewed by Eastern Highlands Health District unless an Application for Plan Review has been submitted)

**SUBDIVISION DATA**

Location:  
85-87 Old Turnpike Road  
Storrs, CT 06268

Zoning district RAR 90

Total # of acres 5.75  
Total # of lots 2

**EXTENSION OF TIME**

Pursuant to Section 8-26d, subsection (b) of the Connecticut General Statutes, the undersigned applicant hereby consents to an extension of time within which the Planning and Zoning Commission is required by law to approve, modify and approve or disapprove a subdivision plan known as

and located at/on \_\_\_\_\_

It is agreed that such extension of time shall not exceed 65 days and it is understood that this extension of time is in addition to the first 65-day period after the receipt of the application by the Planning & Zoning Commission.

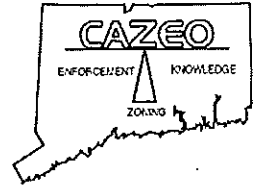
Signature \_\_\_\_\_  
Posted: 2006 11 15

Date \_\_\_\_\_

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# Town of Mansfield



CURT B. HIRSCH  
ZONING AGENT  
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING  
4 SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3341

To: Planning & Zoning Commission  
From: Curt Hirsch, Zoning Agent  
Date: January 28, 2013

Re: Request for Certificate of Compliance  
Cumberland Farms – 1660 Storrs Road (PZC file # 1303-2)

Cumberland Farms is ready to open their new convenience store and gasoline station to the public and has requested that I issue a Zoning Certificate of Compliance. I conducted a site visit on 1/24/13 and determined that all visible site work required under the approved PZC special permit, except for the installation of some remaining landscape material, has been constructed per the approved plans. I have received a certification of completion letter from the project manager stating that all structures and site improvements have been constructed per PZC-approved plans. In a 1/24/13 letter from Troy Comire, Project Manager for Petroleum Engineering, INC, a request has been made to release the Certificate of Compliance pending completion of the required landscape work being performed. Article V.B.7.c of the zoning regulations, permits the issuance of a Certificate of Compliance prior to completion of all work,

“In situations where public health and safety components of a project (have been constructed)...provided a suitable bond...or provided acceptable alternative arrangements are approved by the Commission.”

A substantial amount of the landscaping along both Storrs Road and Middle Turnpike was completed this past fall. The remaining work includes the planting of trees and the establishment of lawn over the remaining disturbed areas. A 1/23/13 letter from Robin Jarzembowski, for Cumberland Farms, estimates that this unfinished work has a value of \$10,000.00, which will be withheld from their contractor until the work is completed and that the work will be completed no later than May 30, 2013. In my opinion, the remaining work is minimal when compared to the amount of work already completed and the property owners have provided sufficient assurance that this remaining work will be completed.

I recommend that: The PZC authorize the Zoning Agent to issue a Certificate of Compliance, for the work associated with the special permit approval of Cumberland Farms, at 1660 Storrs Road, because the work is complete except for required landscaping, there are no uncompleted health or safety components of the project, and the Commission has approved acceptable assurances from the owner, through a 1/24/13 letter from Troy Comire, that the remaining landscape work will be completed prior to May 30, 2013. This approval is authorized through Article V, Section B.7.c of the zoning regulations.

# **PETROLEUM ENGINEERING, INC.**

12 William Way • Bellingham, MA 02019

(508) 966-1600

FAX (508) 966-2172

January 24, 2013

Mr. Curt Hirsch, Zoning Agent  
Town of Mansfield  
4 South Eagle Road  
Mansfield, CT 06268

RE: LETTER OF COMPLETION  
CUMBERLAND FARMS  
1660 STORRS ROAD  
MANSFIELD, CT

Dear Mr. Hirsch:

Please be advised that all site work and structures have been constructed according to the approved PZC plans at the above referenced location. The landscaping has been partially completed along both street frontages.

I am requesting a Certificate of Compliance be issued pending completion of the remaining landscaping in the spring per the January 23, 2013 letter from Robin Jarzembowski.

If you have any questions or concerns please feel free to contact me. I can be reached at my office 508-966-1600 or my cell 508-208-5205.

Sincerely,  
**PETROLEUM ENGINEERING, INC.**



Troy Comire  
Project Manager



January 23, 2013

Mr. Curt Hirsch, Zoning Agent  
Town of Mansfield  
4 South Eagleville Road  
Mansfield, CT 06268

RE: CUMBERLAND FARMS  
1660 STORRS ROAD  
MANSFIELD, CT

Dear Mr. Hirsch:

Please be advised that we will be completing the remaining landscaping and hydro-seeding work at our new site at the above mentioned location this spring 2013.

The remaining estimated dollar value to perform this work is \$10,000. The \$10,000 is being withheld from the contractor and the work will be completed no later than May 30, 2013.

If you have any questions please let us know. I can be reached at 508.270.4408 and the Project Manager, Tom Ferrone, can be reached by cell at 508.782.8586. Thank you.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Robin Jarzenbowski".

Robin Jarzenbowski  
Construction Department Coordinator

cc: Tom Ferrone, Construction Project Manager  
Nicole Ethier, Construction Accounts Payable



cc: planning

Notice of Certain  
Planning and Zoning Matters  
in Neighboring Municipalities

DATE: 1.13.13

TO: Town Clerks of: ANDOVER TOLLAND  
BOLTON VERMONT  
COLUMBIA WINDHAM  
MANSFIELD WILMINGTON

FROM: ☒ Planning and/or Zoning Commission ☐ Zoning Board of Appeals  
☐ Inland Wetland Commission

Town of COVENTRY

Pursuant to P.A. 87-307 which requires zoning, planning, and inland wetland commissions and zoning boards of appeals to notify the clerk of any adjoining municipality of the pendency of an application, petition, request, or plan concerning any project on any site in which:

- 1) Any portion of the property affected by a decision of such board is within five hundred feet of the boundary of the adjoining municipality;
- 2) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- 3) A significant portion of the sewer or water drainage from the project on site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
- 4) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

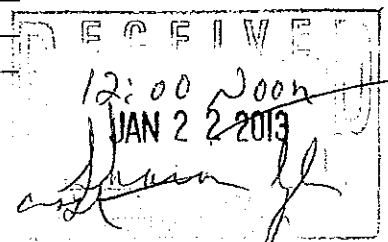
Notice is to be made by registered mail and mailed within seven days of the date of receipt of the application, petition, request, or plan.

No hearing may be conducted unless the adjoining municipality has received notice required by P.A. 87-307. A representative may appear and be heard at any such hearing.

This letter is to inform you of the pendency of such a project described as follows:

Description of application and location PLEASE SEE ATTACHED -  
ZONING REGULATION AMENDMENT

Scheduled hearing: Date: 2.25.13  
Time: 7:00 PM  
Place: TOWN HALL ANNEX  
1712 MAIN ST.



Date: JAN. 8, 2013

Application #: 13 - 02 ZR

## COVENTRY PLANNING AND ZONING COMMISSION

### APPLICATION FOR:

### PETITION FOR CHANGE OF THE ZONING REGULATIONS

The undersigned hereby petitions that the Zoning Regulations of the Town of Coventry be Changed as Described Below:

SEC. 6.11.01.2.9 - (NEW USE) - TATTOO STUDIO

SEC. 6.10.01.2.10 - " " " "

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(Please attach additional information if necessary)

A fee of \$150.00 and a State fee of \$60.00 is herewith included.

AMOUNT RECEIVED: Ø

DATE RECEIVED: 1.8.13

AGENT: EMIL M. TRUITS (FOR PET)

APPLICANT: COVENTRY ZTC

ADDRESS: 1912 MAIN ST. COVENTRY

ADDRESS: SAME

PHONE: \_\_\_\_\_

PHONE: \_\_\_\_\_

SIGNATURE: [Signature]

SIGNATURE: [Signature]

DATE: 1.8.13

DATE: 1.8.13



#### Section 6.09.02 Specially Permitted Uses

The Commission may issue a special permit in accordance with Section 7.03 of these Regulations for the following uses in the Village Residence Zone:

a. Structures providing or requiring direct access to a lake, such as piers, docks, moorings, boathouses and cabanas.

b. Philanthropic, educational, religious, and eleemosynary uses conducted by a non-profit organization or governmental body.

c. In a mill structure existing as of January 1, 2005, or in an expansion thereof, the following uses may be permitted: (Revised - Effective 06/15/12)

1. light manufacturing
2. storage (enclosed)
3. food service establishment (with or without outdoor seating)
4. tavern, inn
5. public assembly
6. business services
7. retail services

d. Designed Apartment/Condominium Developments, including, but not limited to senior housing, in accordance with Section 5.13 of these Regulations.

e. Offices.

#### Section 6.10 Gateway Zone

##### Section 6.10.01 Generally Permitted Uses

a. Uses Not Requiring Site Plan Review By the Commission

The following uses are permitted in the Gateway Zone upon the issuance of a zoning permit by the Zoning Agent:

1. Finance, insurance, real estate services.
2. Offices.

h. In a mill structure existing as of January 1, 2005, or in an expansion thereof, the following uses may be permitted: (Revised - Effective 06/15/12)

1. assembly.
2. factory outlet.
3. light manufacturing.
4. office.
5. residential uses.
6. business services.
7. retail services.

i. Designed Apartment/Condominium Developments, including, but not limited to senior housing, in accordance with Section 5.13 of these Regulations.

j. Car washes (Added – Effective 07/30/07)

#### Section 6.10.03 Design Guidelines.

In addition to the standards provided elsewhere in these Regulations, the Commission shall consider, when reviewing site plans and special permit applications for property within the Gateway Zone, the "Design Guidelines, Village and Gateway Districts, Town of Coventry," developed by the Green Valley Institute and dated September 2003, in rendering its decision on application for either (i) new construction; (ii) modifications to an existing building that would result in an increase of 25% or more in the surface area of the exterior of the building; or (iii) modifications to an existing structure that would result in an increase of 25% or more in the footprint area of the structure. The foregoing Design Guidelines are hereby incorporated into these Regulations by reference.

### Section 6.11 Village Center Zone

#### Section 6.11.01 Generally Permitted Uses

a. Uses Not Requiring Site Plan Review By the Commission

The following uses are permitted in the Village Center Zone upon the issuance of a zoning permit by the Zoning Agent:

1. Finance, insurance, real estate services.
2. Offices.

h. In a mill structure existing as of January 1, 2005, or in an expansion thereof, the following uses may be permitted: (Revised - Effective 06/15/12)

1. assembly.
2. factory outlet.
3. light manufacturing.
4. office.
5. residential uses.
6. business services.
7. retail services.

i. Designed Apartment/Condominium Developments, including, but not limited to senior housing, in accordance with Section 5.13 of these Regulations.

#### Section 6.11.03 Design Guidelines (Added – Effective 10/12/10)

In addition to the standards provided elsewhere in these Regulations, the Commission shall consider, when reviewing site plans and special permit applications for property within the Village Center Zone, the "Design Guidelines, Village and Gateway Districts, Town of Coventry," developed by the Green Valley Institute and dated September 2003, in rendering its decision on application for either (i) new construction; (ii) modifications to an existing building that would result in an increase of 25% or more in the surface area of the exterior of the building; or (iii) modifications to an existing structure that would result in an increase of 25% or more in the footprint area of the structure. The foregoing Design Guidelines are hereby incorporated into these Regulations by reference.

### Section 6.12 Neighborhood Commercial Zone (NC) Zone

#### Section 6.12.01 Generally Permitted Uses

##### a. Uses Not Requiring Site Plan Review By the Commission

The following uses are permitted in the Neighborhood Commercial Zone upon the issuance of a zoning permit by the Zoning Agent:

1. Single-family dwellings.
- b. Uses Requiring Site Plan Review By the Commission

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**TOWN OF MANSFIELD**  
**OFFICE OF THE TOWN MANAGER**



Matthew W. Hart, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

January 22, 2013

Mr. Jason Coite  
University of Connecticut  
Office of Environmental Policy  
31 LeDoyt Road, U-3055  
Storrs, Connecticut 06269

**Re: University of Connecticut Water Supply Environmental Impact Evaluation (EIE)**

Dear Mr. Coite:

Thank you for the opportunity to speak at tonight's public hearing. I have been following the commentary regarding the draft environmental impact evaluation (EIE), and there are a few key issues that I would like to address on behalf of the Town of Mansfield.

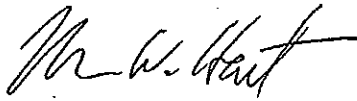
The first issue is Mansfield's involvement and interest in the EIE and the water supply project in general. For several years now, the Town has been working to bring water and sewer to serve our Four Corners commercial district in the vicinity of the intersection of Route 195 and Route 44 in Mansfield. During this timeframe, the Town has also identified a need for water to serve a planned independent/assisted living facility in Mansfield as well as future development in accordance with the Town's plan of conservation and development. When funding for the University's technology park was announced in 2011, we saw an opportunity to work collaboratively with UConn to identify additional water supply to serve both University and municipal uses. By working together, the Town and the University hope to identify a water supply option that meets the needs of both parties and allows us to maximize our collective resources.

The second point that I would like to address is the perception that the Town and the University have already selected the Metropolitan District Commission (MDC) as the "preferred" option or the "only" option. This is not accurate. From the Town's perspective, the EIE has identified three interconnection alternatives to consider – the Windham Water Works, the Connecticut Water Company and the MDC. The Windham and Connecticut Water options are viable alternatives, and, in fact, are favored by some of the Town's commissions and advisory committees. Similarly, I believe that my colleagues at the University of Connecticut remain committed to a thorough analysis of the three identified interconnection options.

The last point I wish to make is that the Town of Mansfield respects the importance and the value of the MDC and Shenipsit Lake Reservoirs, Naubesatuck Lake, the Farmington River and other potentially impacted water sources. Mansfield is proud of its commitment to sustainability and history of sound conservation principles and practices. Our objective is to continue to work collaboratively with UConn to identify a water supply option that is environmentally responsible, economically feasible and is otherwise acceptable to the Town, the University, the region and the state.

As a key partner in the EIE process, it is important for the Town of Mansfield to hear from interested parties and citizens. I appreciate the opportunity to address the issues noted above and thank you again for scheduling tonight's public hearing.

Sincerely,



Matthew W. Hart  
Town Manager

CC: State Senator Donald Williams  
State Representative Gregory Haddad  
State Representative Linda Orange  
Town Council  
Planning and Zoning Commission  
Conservation Commission  
Four Corners Water and Wastewater Advisory Committee  
Sustainability Advisory Committee  
Thomas Callahan, University of Connecticut  
Richard Miller, University of Connecticut

# CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Winter 2013

Volume XVII, Issue 1

## FEDERAL COURT DISMISSES EQUAL PROTECTION ATTACK ON COMMISSIONERS

The owner of a parcel of land zoned commercial sought repeatedly to gain zoning approvals to allow him to expand his wholesale propane gas business. The zoning regulations specifically prohibited the installation of fuel storage tanks larger than 10,000 gallons and also prohibited the wholesale of fuels. The plaintiff, as well as other businesses, had been approved for fuel storage tanks larger than 10,000 gallons in the past but once this error was discovered, no further approvals were given. Despite being alerted by the planning and zoning commission and its staff that no more approvals for oversized tanks would be given and that a wholesale fuel business was a prohibited use, the plaintiff continued in applying for zoning approvals, including an application for a zone change to permit what he wanted.

After suffering denials, the plaintiff filed a lawsuit in federal court alleging, among other things, that he was being denied equal protection of the laws because similarly situated property owners had been given permission to do what he was denied from doing. In particular, he pointed to two local businesses that were approved for oversized fuel storage tanks 6 years earlier. In denying this claim, the court referenced several well established principles.

“In the land use context, timing is critical. Courts must be sensitive to the possibility that differential treatment – especially differential treatment following a time lag – may indicate a change in policy rather than an intent to discriminate.” In this case, the Commission and its staff became aware that past approvals for oversized storage tanks had been done in error. They did not need to keep repeating this error and their corrective action was not a violation of equal protection principles. *see Musco Propane LLP v. Town of Wolcott et al., 3:10CV-1400 (CT Dist 2012)*

## TRIAL COURT FINDS THAT A SITE PLAN RUNS WITH THE LAND

A trial court reviewed a decision by a zoning board of appeals that concerned a cease and desist order. This cease and desist order stated as a zoning violation that a home occupation had ceased because the permit holder no longer resided at the property. The zoning regulations specifically provided that a home occupation terminates under these conditions. An occupant of the property claimed he had the right to continue the home occupation as it was allowed by a site plan approval and such approvals could not be made unique to the permit holder but instead attached to the land.

In finding that the home occupation site plan ran with the land, the Court relied on case law that declares that special permits, variances and

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wetlands permits all run with the land. The court ignored the fact that several land use treatises, as well as a Connecticut Supreme Court decision all state that a site plan can be limited in duration by attaching to the owner/user of the land based on valid zoning reasons. While the Court's decision does not find support in any case law which involves a site plan approval or zoning permit, it is consistent in regard to other land use permits. *see Madore v. ZBA,, 54 Conn. L. Rptr. 519 (2012).*

## ABSTENTION IS NOT A VOTE

An application for a variance came before a zoning board of appeals. Due to a conflict of interest, one member disqualified himself. This left 4 members of the Board qualified to vote. Notwithstanding there being only 4 members, the applicant requested that the public hearing close and a decision be made. The Board voted 3 in favor and one abstention. The Board interpreted its vote as a denial. An appeal to court followed.

Connecticut General Statute § 8-7 expressly requires an affirmative vote of 4 members of a zoning board of appeals in order for a variance request to be approved. The applicant claimed that under Connecticut law, a vote in abstention is counted with the majority. Thus the 1 abstention should have been counted with the 3 votes in favor of its application providing the required 4 votes. The Court disagreed stating that § 8-7 is clear on its face – “When a

statute specifically requires a number of affirmative votes, an abstention is not counted with the majority.” With only 3 votes in favor of the application, the Board was correct to consider the application denied. *see Green Falls Associates LLC v. ZBA, 138 Conn. App. 481 (2012).*

## REVOCATION OF ZONING PERMIT AS ENFORCEMENT TOOL

A property owner had sought approval to remove an existing house and replace it with a new home and a deck. The property was located within an area subject to Coastal Area Site Plan Review. A suitable application and site plan were submitted to the planning and zoning board, which, after a public hearing, approved the application. Construction was well underway when the town assistant planner conducted a site inspection. She found numerous incidences where the construction was not in compliance with the approved site plan. The matter was brought before the board which, after a hearing, revoked the zoning permit that had been issued pursuant to the approved site plan. An appeal to court followed.

The court approved this enforcement mechanism as the zoning regulations provided authority to revoke a zoning permit under these circumstances. The court also found that section 8-12 of the general statutes provides for remedies in addition to an enforcement action [injunction] to cure zoning violations which could be used

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along with the revocation of a zoning permit. *see Voll v. PZC, 54 Conn. L. Rptr. 569 (2012).*

## PERSONAL RELATIONSHIP BETWEEN APPLICANT'S ATTORNEY AND BOARD MEMBER LEADS TO DISQUALIFICATION

An application for a use variance to permit the use of a parcel of property as an automobile sale and repair facility came before a zoning board of appeals. The applicant's attorney was the sole representative for the applicant at the variance hearing. This attorney was also the business and personal attorney for one of the Board members. This member did not disqualify himself and his vote was needed to approve the variance.

An appeal to court followed where it was ruled that the relationship between the applicant's attorney and the Board member was too close of a personal relationship. Thus, the Board member's participation in the hearing tainted the process. The Board's decision was voided with a new hearing ordered. *see Caruso v. Zoning Board of Appeals, 54 Conn. L. Rptr. 505 (2012).*

## HEARING REQUIRED WHEN REVOKING PERMIT

A site plan to renovate a small commercial building was granted. About one year later, the site plan was revoked by the Commission due to after discovered evidence which indicated that the site plan should not have been

granted. This revocation decision was appealed to court.

The court remanded the matter back to the commission because the action taken was done without the benefit of a public hearing. Before revoking its site plan approval, the holder of the site plan should have been given the opportunity to respond to the new evidence. While not stated by the court, a site plan approval and related permits are viewed as a property interest. Our state and federal constitutions guarantee the right to due process before one can be deprived of a property right. *see Demos Realty v. Planning & Zoning Commission, 54 Conn. L. Rptr. 579 (2012).*

## ANNOUNCEMENTS

### ANNUAL CONFERENCE

The Federation's Annual Conference will take place on March 14, 2013 at the Aqua Turf Country Club. The price per person will be \$43.00. A more complete announcement will be mailed out in January.

### ABOUT THE EDITOR

*Steven Byrne is an attorney with an office in Farmington, Connecticut. A principle in the firm of Byrne & Byrne, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.*

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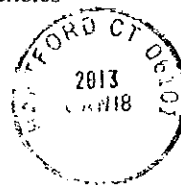
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